UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD Washington, D.C.

RAYMOND INTERIOR SYSTEMS

and

Case 21-CA-37649

SOUTHERN CALIFORNIA PAINTERS AND ALLIED TRADES DISTRICT COUNCIL NO. 36, INTERNATIONAL UNION OF PAINTERS AND ALLIED TRADES, AFL-CIO

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, LOCAL UNION 1506

and

Case 21-CB-14259

SOUTHERN CALIFORNIA PAINTERS AND ALLIED TRADES DISTRICT COUNCIL NO. 36, INTERNATIONAL UNION OF PAINTERS AND ALLIED TRADES, AFL-CIO

and

SOUTHWEST REGIONAL COUNCIL OF CARPENTERS, UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

(Party in Interest)

COUNSEL FOR THE ACTING GENERAL COUNSEL'S OPPOSITION TO RESPONDENT RAYMOND INTERIOR SYSTEMS INC.'S NOTICE OF SUPPLEMENTAL AUTHORITY FOR ITS MOTION FOR RECONSIDERATION

Counsel for the Acting General Counsel (the General Counsel) files this Opposition to the Notice of Supplemental Authority (the Notice), filed on June 24, 2011, by Respondent Raymond Interior Systems, Inc. (Raymond).

Raymond requests that the Order in the instant case be modified to match the order in <u>Garner/Morrison, LLC</u>, 356 NLRB No. 163 (May 27, 2011). Raymond claims that while in the instant case the Board ordered Raymond to provide alternate pension, medical, and other benefits coverage, it did not do so with the respondent in <u>Garner/Morrison</u>.

Paragraph 2(c) of the Board's Order in the instant case provides that Raymond take the following affirmative action necessary to effectuate the policies of the Act:

To the extent that coverage was provided under Carpenters Union plans, provide alternate benefits coverage equivalent to the coverage that its drywall finishing employees possessed under the Carpenters Union 2006-2010 master agreement, including pension coverage and medical, hospitalization, prescription drug, dental, optical, life, and other insurance benefits, and ensure that there be no lapse in coverage. 354 NLRB No. 85, slip op. at p.3 (September 30, 2009). ¹

The request to modify the Order should be denied because the Board's remedy is appropriate for the various violations found. Here, Raymond unlawfully recognized and bargained with the Southwest Regional Council of Carpenters on behalf of its affiliated local unions ("Carpenters"). In addition, the complaint here specifically alleged that Raymond violated Section 8(a)(3) of the Act by maintaining and applying the Carpenters' 2006-2010

¹ In a subsequent decision, <u>Raymond Interior Systems</u>, 355 NLRB No. 209 (September 30, 2010), a three-member panel of the Board adopted the recommended Order in the decision reported at 354 NLRB No. 85.

master agreement, including its union-security provision, to drywall finishing employees.² 354 NLRB No. 85, slip op. at p.2.

The remedy appropriately requires Raymond to disestablish its relationship with the Carpenters. However, the employees must not be disadvantaged due to Raymond's misconduct. In the instant case, the Board agreed with the ALJ, and concluded that Raymond violated Section 8(a)(3) of the Act by applying the Carpenters' master agreement to its employees. Id. Therefore, it is proper to require Raymond to provide alternate benefits coverage equivalent to that provided under the Carpenters' 2006-2010 master agreement. Otherwise, employees would be improperly penalized for Raymond's unlawful acts. That result would be contrary to the purposes and policies of the Act.

Since the remedy in the instant case is proper based on the particular facts in this case, Raymond's requests to modify the Order should be rejected.

Respectfully submitted,

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DATED at Los Angeles, California, this 12th day of July, 2011.

² In contrast, the complaint in <u>Garner/Morrison</u> did not allege that Garner/Morrison violated the Act by entering into a collective-bargaining agreement with the Carpenters. 356 NLRB No. 163, slip op. at fn. 6.

STATEMENT OF SERVICE

I hereby certify that a copy of Counsel for the Acting General Counsel's Opposition To Respondent Raymond Interior Systems Inc.'s Notice of Supplemental Authority For Its Motion For Reconsideration in Cases 21-CA-37649 and 21-CB-14259 was submitted by E-filing to the Office of the Executive Secretary of the National Labor Relations Board on July 12, 2011. The following parties were served with a copy of the same document by electronic mail.

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Region 21

Dated at Los Angeles, California, this 12th day of July, 2011.